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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 09/888,031 | 06/25/2001 | Kenneth H. Tarbet | 4001-00800 | 7507 |
| 30652 7590 01/30/2007 CONLEY ROSE, P.C. 5700 GRANITE PARKWAY, SUITE 330 PLANO, TX 75024 | | | EXAMINER ALI, MOHAMMAD | |
| | | | ART UNIT 2166 | PAPER NUMBER |
| SHORTENED STATUTORY PERIOD OF RESPONSE | | | MAIL DATE | DELIVERY MODE |
| 3 MONTHS | | | 01/30/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/888,031

Applicant(s)

TARBET, KENNETH H.

Examiner

Mohammad Ali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-10 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 and 11-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 10, 2006 has been entered.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 7-10 are rejected under 35 U.S.C. 101 because the claimed invention does not fall within at least one of the four categories of patent eligible subject matter recited in 35 U.S.C. 101 (process, machine, manufacture, or composition of matter); or claimed invention is directed to a judicial exception to 35 U.S.C. 101 (i.e., an abstract idea, natural phenomenon, or law of nature) and is not directed to a practical application of such judicial exception (e.g., because the claim does not require any physical transformation and the invention as claimed does not produce a useful, concrete, and tangible result); or claimed invention would impermissibly cover every substantial practical application of, and thereby preempt all use of, an abstract idea, natural phenomenon, or law of nature.

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 7-10 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Deaton et al. ('Deaton' hereinafter), USP, 5,649,114.

With respect to claim 7,

Deaton teaches method of improving customer loyalty (see col. 4, lines 57-60, Deaton), said method comprising:

utilizing a computer to execute a plurality of steps, the steps comprising (see Figs. 2, 10A, Deaton);

selecting a product information related to product (see col. 68, lines 43-45, Deaton);

storing a purchase information related to the purchase of the product by a customer (see col. 68, lines 45-55, Deaton);

storing a customer information related to the customer, the customer information associating the customer with the purchase (see col. 69, lines 9-20 et seq, Deaton);

storing a promotion information related to a promotion of the product, the promotion being independent of the customer information (see col. 90, lines 36-50, Deaton);

determining an intersection of the promotion information, the purchase information, and the customer information and storing the intersection in a database as customer incentive report (see col. 90, lines 36-50, Fig. 35, Deaton);

wherein the database comprises a first table containing the product information second table comprising the purchase information, and a third table comprising the promotion information and a reference to a row of at least one table in the database (see col. 93, lines 5-35, Fig. 38, Deaton); and,

following the determining step (see Figs. 10A, 35, Deaton)) step:

fashioning the second table responsive to an item identifier attribute of the first table (see col. 104, lines 20-24, Deaton); and

picking at least one row from first table (see col. 100, lines 10-25, Deaton); and,

receiving an identifier of a first input table comprising at least a portion of one of the first tables, the first input table comprising a plurality of rows, at least one row consisting of at least one selected from an item effective identifier and a user effective identifier (see col. 100, lines 10-25, Deaton); and

fashioning the third table with the identifier (see col. 104, lines 20-24, Deaton).

As to claim 8,

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Deaton teaches comprising the additional step of delivering the customer incentive report to a user corresponding to the user identifier (see col. 118, lines 28-35, Deaton).

As to claim 9,

Deaton teaches wherein the delivery step comprises delivery of a computer-readable copy of the customer incentive report to the corresponding user (see col. 118, lines 28-35, Deaton).

As to claim 10,

Deaton teaches wherein the delivery step comprises delivery of a printed copy of the customer incentive report to the corresponding user (see col. 118, lines 28-35, Fig. 17A and B, Deaton).

Remarks

6. Applicant's argue that 'customer incentive report' is quite different Deaton teaching.

In response to applicants' argument the Examiner respectfully submits that Deaton teaches Customer incentive report as, the system generates coupons or issue incentives to induce that higher level of performance by the customer. The performance of a customer is tracked and incentives are modified based upon the criteria of performance such that incentives are added or subtracted, see col. 71, lines 26-30. Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification.

Interpretation of Claims-Broadest Reasonable Interpretation

During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 162 USPQ 541,550-51 (CCPA 1969).

Reference is made to MPEP 2144.01 - Implicit Disclosure

"[I]n considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." *In re Preda*, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968)

Subsequent to an analysis of the claims it was revealed that a number of limitations recited in the claims belong in the prior art and thus encompassed and/or implicitly disclosed in the reference (s) applied and cited. It is logical for the examiner to focus on the limitations that are "crux of the invention" and not involve a lot of energy and time for the things that are not central to the invention, but peripheral. The examiner is aware of the duties to address each and every element of claims, however, it is also important that a person prosecuting a patent application before the Office or an stakeholders of patent granting process make effort to understand the level of one of ordinary skill in the (data processing) art or the level one of skilled in the (data processing) art, as encompassed by the applied and cited references. The administrative convenience derived from such a cooperation between the attorneys and examiners benefits the Office as well the patentee.

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In view of the above, the examiner contends that all limitations as recited in the claims have been addressed in this Action.

For the above reasons, Examiner believed that rejection of the last Office action was proper.

Bair et al. (USP 6,003,024) teaches all the limitation as claimed by the applicant see the specification.

Herz et al. (USPGPUB 2001/00148868) teaches all the limitation as claimed by the applicant see the specification.

Bednarek (USP, 6,965,868) teaches all the limitation as claimed by the applicant see the specification.


Therefore, Deaten teaches all the limitations as stated above.

Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad Ali whose telephone number is (571) 272-4105. The examiner can normally be reached on Monday-Thursday (7:30 am-6:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam can be reached on (571) 272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Mohammad Ali
Primary Examiner
Art Unit 2166

MA
January 26, 2007